

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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TERRANCE L. HOLLIDAY,

Case No. 19-CV-0458 (DWF/TNL)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

PAUL SCHNELL; TONY LOUREY;  
NANCY JOHNSTON; KEITH  
ELLISON, Minnesota Attorney General;  
KELLY LYN MITCHELL, Executive  
Director of the Minnesota Sentencing  
Commission; and JANE AND JOHN  
DOES, in their official capacities,

Defendants.

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In an order dated May 29, 2019, this Court noted discrepancies between the application to proceed *in forma pauperis* (“IFP”) submitted by plaintiff Terrance L. Holliday in this matter as compared with an IFP application and financial information recently submitted by Holliday in a related matter. *See* ECF No. 8. Holliday, a client of the Minnesota Sex Offender Program (“MSOP”), was given 20 days in which to submit a copy of his MSOP account statement for November 2018 through May 2019 and thereby verify his financial eligibility for IFP status. Alternatively, Holliday was afforded 20 days in which to pay the \$400.00 filing fee for this matter and proceed as a non-IFP litigant. Holliday was warned that should he fail to submit the required financial information or pay the filing fee, it would be recommended that this action be dismissed without prejudice for failure to prosecute. *Id.* (citing Fed. R. Civ. P. 41(b)).

The deadline imposed by this Court has now passed, and Holliday has not yet submitted the ordered financial information or paid the filing fee for this matter. In fact, Holliday has not communicated with the Court about this case at all since the time of this Court's prior order. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

#### RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: June 26, 2019

s/Tony N. Leung

Tony N. Leung

United States Magistrate Judge

#### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).